

The intent of this write-up is to capture my informal comments to Art Williams and Jon Trout of the Louisville Metro Air Pollution Control District during the meeting with the Rubbertown Plant Managers and Environmental Managers in the APCD Board Room on Wednesday, October 20, 2004.

Regulation 1.06, Section 4, Paragraph 4.1.3

I question the District's need for sites to report "uncontrolled emissions." This term as defined in the draft regulation does not represent any actual emission rate and can only be used as a "scare factor" for the public. This term seems to be equivalent to process material throughput. We regard material throughput data as confidential business information (CBI).

Regulation 1.21

DuPont Dow Elastomers L.L.C. – Louisville Plant is already subject to the federal leak detection and repair (LDAR) program codified at 40 CFR Part 63, Subpart H. In general, DuPont Dow Elastomers objects to the District's draft regulation on fugitive emissions for the following reasons:

1. The leak definitions at paragraph 1.4 are arbitrary, and represent values that are 75% to 80% below the Phase III leak definitions under the federal rule. I have asked our fugitive emissions contractor to insert the District's values into our historical database so we can evaluate our performance to date against the historical standard. This effort is not complete.
2. The leak definitions at paragraph 1.4 do not reflect the federal program's recognition that pumps in different services may have different leak definitions for valid reasons. The pump leak definitions in Subpart H are codified at 40 CFR § 63.163(b)(2)(iii). These definitions provide that pumps are subject to leak definitions of
 - a. 5,000 ppm or greater if in polymerizing monomer service;
 - b. 2,000 ppm or greater if in food or medical service; and
 - c. 1,000 ppm or greater for all other services.

In addition, 40 CFR § 63.163(c)(3) provides that pumps subject to the 1,000 ppm leak definition do not require repair unless the instrument reading is 2,000 ppm or greater. We believe there are sound reasons for the differences. In particular, we said that the reason for the language in § 63.163(c)(3) is that first attempts at repair have the potential to cause serious problems, up to and including catastrophic failure, of pumps that may be running as well as can be expected.

3. DuPont Dow regards as non-negotiable the exemption codified at 40 CFR § 63.167(e) that addresses open-ended valves or lines containing materials "which would

autocatalytically polymerize, or would present an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system” as specified in paragraphs (a) through (c) of 40 CFR § 63.167.

4. The requirement in Section 11 to prepare, submit for approval, and implement a data quality assurance and control plan for leak detection and repair technicians does not take into account the situation where a third-party contractor performs the monitoring. We pay the contractor to remain cognizant and to perform in accordance with EPA guidance related to how many components a well-trained technician can legitimately monitor per hour or day.
5. The independent third-party auditing requirements in Section 12 are offensive. District staff should be tasked with field-checking fugitive emission monitoring programs following EPA Method 21 to the letter. This requirement as drafted fails to recognize that the bar code tags installed by the current contractor will be useless for the independent contractor’s purposes. Accordingly, there will be additional costs to each plant site for the necessary additional and unnecessary tagging of components that may run into several thousand additional dollars per audit. In addition, the draft regulation specifies that the components monitored during one independent third-party audit cannot be remonitored (unless it is unavoidable) for the following two biennial audits. This means that every time a third-party contractor sets foot on the site, there will be additional costs to the site for the tagging and monitoring of all-different components. We fail to see how this requirement will improve the air quality or reduce any risks to public health.
6. It is unfair to fugitive emission contractors, none of whom are based in Louisville, to establish a unique set of leak detection and repair program requirements applicable only in the Louisville Metro area. It is possible that some contractors will avoid offering services to Louisville customers because of the uniqueness of the local regulation.
7. The contractors will incur additional costs in gearing up to meet the Louisville program specifications. These costs will be passed onto their Louisville customers. We cannot pass the costs on to our customers in turn; given the maturity and annual shrinkage in the global Neoprene market.